

Appl. No. 09/213,096
Amtd. Dated 03/29/2004
Reply to Office Action of 12/29/2003

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed 12/29/2003. In the Office Action, claims 1-8, 21-23 and 25-38 were rejected under 35 U.S.C. § 102. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Claims 1-8, 21-23 and 25-38 remain in this application.

Double Patenting

2. The Examiner rejects claims 1, 21, 25, 32 and 38 under the judicially created doctrine of the obviousness-type double patenting as being unpatentable over claims 1, 10, 16 and 19 of copending Application No. 09/271,011. The Examiner asserts that although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention of the instant application encompasses the claimed subject matters of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Therefore, Applicants acknowledge and offer submission of a terminal disclaimer to obviate the obviousness-type double patenting rejection upon allowance of the pending claims. Applicants respectfully request that the Examiner hold the obviousness-type double patenting rejection in abeyance until allowance of the pending claims.

Rejection Under 35 U.S.C. § 103

1. Claims 1-8, 21-23 and 25-38 are rejected under 35 U.S.C. § 103(e) as being anticipated by Bellenger (USP 5,802,054) in view of Muller et al. (USP 6,021,132) (hereinafter "Muller").

Applicants respectfully traverse the rejection because a prima facie case of obviousness has not been established. Applicant reiterates the arguments presented in the previous response

Applicants respectfully agree with the Examiner's position that "Bellenger fails to explicitly disclose the limitation of "assigning a pointer value to each frame without modification of a frame, the pointer value being based, at least in part on the relative order ... according to complete reception of the frame" (Office Action, page 8). However, Applicants further submit that the combination of Bellenger and Muller does not render the present invention unpatentable. Neither Bellenger nor Muller, alone or in combination suggest a pointer value based, at least in part, on a relative order. In fact, Bellenger merely discloses a tag or hash value that identifies the addressed location (Bellenger, Col. 9, lines 18-22). A tag or a hash value is not a pointer value as claimed.

The Office Action further states that Muller discloses the claimed invention (Office Action, page 5, first paragraph). Applicants respectfully disagree and submit that Muller does not

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disclose or suggest indications of start of transmission and a pointer value being based on the relative order in which the indications of start are received. First, Muller does not disclose receiving indications of start of frame transmission. Muller merely discloses receiving a packet (Muller, Col. 6, lines 47-51). In contrast, the claimed invention recites receiving a plurality of indications denoting the start of frame transmission. As an example, an indication of start of the frame is the RX_DV signal (See Specification, page 16, lines 7-8). Second, Muller does not disclose "relative order". In fact, Muller teaches away the claimed invention because Muller's teachings cannot keep track of the relative order because the forwarding decision for a packet is complete BEFORE the next packet arrives (Muller, Col. 6, lines 48-51). Since the decision to forward is made before the next packet arrives, it is impossible to determine the relative order.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-8, 21-23 and 25-38 under 35 U.S.C. § 103(e) as being anticipated by Bellenger (USP 5,802,054) in view of Muller et al. (USP 6,021,132).

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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